

## § 151.8

## 17 CFR Ch. I (4–1–16 Edition)

the Commission such information concerning the person's claim for exemption. Upon notice and opportunity for the affected person to respond, the Commission may amend, suspend, terminate, or otherwise modify a person's aggregation exemption for failure to comply with the provisions of this section.

(3) In the event of a material change to the information provided in the notice filed under this paragraph, an updated or amended notice shall promptly be filed detailing the material change.

(4) A notice shall be submitted in the form and manner provided for in § 151.10.

(i) *Exemption for federal law information sharing restriction.* Notwithstanding any provision of this section, a person is not subject to the aggregation requirements of this section if the sharing of information associated with such aggregation would cause either person to violate Federal law or regulations adopted thereunder and provided that such a person does not have actual knowledge of information associated with such aggregation. Provided, however, that such person file a prior notice with the Commission detailing the circumstances of the exemption and an opinion of counsel that the sharing of information would cause a violation of Federal law or regulations adopted thereunder.

### § 151.8 Foreign boards of trade.

The aggregate position limits in § 151.4 shall apply to a trader with positions in Referenced Contracts executed on, or pursuant to the rules of a foreign board of trade, provided that:

(a) Such Referenced Contracts settle against any price (including the daily or final settlement price) of one or more contracts listed for trading on a designated contract market or swap execution facility that is a trading facility; and

(b) The foreign board of trade makes available such Referenced Contracts to its members or other participants located in the United States through direct access to its electronic trading and order matching system.

### § 151.9 Pre-existing positions.

(a) *Non-spot-month position limits.* The position limits set forth in § 151.4(b) of this chapter may be exceeded to the extent that positions in Referenced Contracts remain open and were entered into in good faith prior to the effective date of any rule, regulation, or order that specifies a position limit under this part.

(b) *Spot-month position limits.* Notwithstanding the pre-existing exemption in non-spot months, a person must comply with spot month limits.

(c) *Pre-Dodd-Frank and transition period swaps.* The initial position limits established under § 151.4 shall not apply to any swap positions entered into in good faith prior to the effective date of such initial limits. Swap positions in Referenced Contracts entered into in good faith prior to the effective date of such initial limits may be netted with post-effective date swap and swaptions for the purpose of applying any position limit.

(d) *Exemptions.* Exemptions granted by the Commission under § 1.47 for swap risk management shall not apply to swap positions entered into after the effective date of initial position limits established under § 151.4.

### § 151.10 Form and manner of reporting and submitting information or filings.

Unless otherwise instructed by the Commission or its designees, any person submitting reports under this section shall submit the corresponding required filings and any other information required under this part to the Commission as follows:

(a) Using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission; and

(b) Not later than 9 a.m. Eastern Time on the next business day following the reporting or filing obligation is incurred *unless*:

(1) A 404A filing is submitted pursuant § 151.5(d), in which case the filing must be submitted at least ten business days in advance of the date that transactions and positions would be established that would exceed a position limit set forth in § 151.4;